

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
AMARILLO DIVISION**

**DARRELL KIMBROUGH, MSN, FNP-C,  
MARY BENARD, MSN, FNP-C and  
TINA SPOHN-LEDFORD, MSN, FNP-C,**

**Plaintiffs,**

**VS.**

**NAEEM KHAN, M.D. and  
AMARILLO URGENT CARE, LLC,**

## Defendants.

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**CIVIL NO. 2:18-CV-00082-Z-BR**

**PLAINTIFFS' BRIEF IN SUPPORT OF OBJECTIONS TO CERTAIN  
PROPOSED JURY INSTRUCTIONS FROM DEFENDANTS**

Plaintiffs Darrell Kimbrough, MSN, FNP-C, Mary Benard, MSN, FNP-C, and Tina Spohn-Ledford, MSN, FNP-C (collectively “Plaintiffs”) file this Brief in Support of their Objections to Certain Jury Instructions proposed by Defendants and in Support thereof state as follows:

### Proposed Instruction 1

Since filing the Joint Jury Charge, Plaintiffs and Defendants have resolved the Objection to Instruction 1 by revising the second sentence in Defendants' contentions to read: "Furthermore, Defendants contend that Plaintiffs were independent contractors and were therefore not covered by the FLSA."

### Proposed Instruction 6

Plaintiffs object to the reference to an employer policy prohibiting the working of overtime without prior authorization on the basis that the record does not support the assertion that any such policy existed. Any reference to a non-existent policy will would lead to confusion

and mislead the jury as to the actual conditions Plaintiffs worked under including the policies and practices associated with those conditions.

WHEREFORE, PREMISES CONSIDERED, Plaintiffs respectfully pray that this Court Grant their objection to the proposed jury instructions, and for such other and further relief, both general and special, at law or in equity, to which Plaintiffs may be justly entitled.

Dated: February 19, 2021

Respectfully submitted,

/s/ Shawn D. Twing

Shawn D. Twing

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**CERTIFICATE OF SERVICE**

I certify that a true and correct copy of the foregoing has been served on the following counsel of record, via the court's CM/ECF electronic filing system on February 19, 2021:

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/s/ Leslie Ogle \_\_\_\_\_